

RESOLUTION NO. 07-90

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AUTHORIZING THE MAYOR AND THE CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO ENTER INTO A JOINT PROJECT AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE CITY OF HIALEAH FOR TURF AND LANDSCAPE MAINTENANCE FOR A TERM OF ONE YEAR, COMMENCING ON AUGUST 1, 2007 AND ENDING ON JULY 30, 2008, WITH TWO SUCCESSIVE ANNUAL RENEWALS UPON AGREEMENT OF THE PARTIES, WHEREBY FDOT SHALL PAY THE CITY AN AMOUNT NOT TO EXCEED \$172,150.00 FOR LANDSCAPE AND TURF MAINTENANCE ON STATE ROADSIDE AREAS AND MEDIAN STRIPS DESIGNATED IN THE AGREEMENT.

**WHEREAS**, since 1997, the City of Hialeah and the Florida Department of Transportation have entered into agreements to compensate the City for maintaining landscaped roadside areas and median strips on designated portions of state roads located within the geographic limits of the City; and

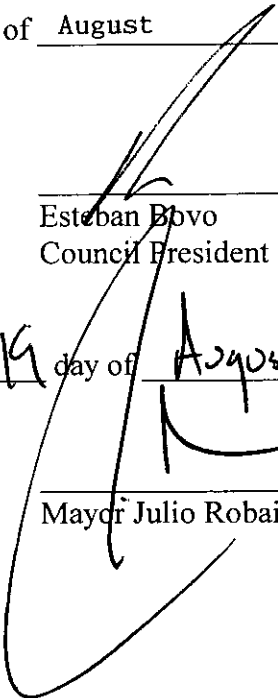
**WHEREAS**, the City of Hialeah finds that it is in the best interest of the City to ensure the proper maintenance of state roads within the City at a savings to the Florida Department of Transportation, while at the same time being fully compensated for the cost in doing so.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The foregoing facts and recitations contained in the preamble to this resolution are hereby incorporated and adopted by reference as if fully set forth herein.

**Section 2:** The City of Hialeah, Florida hereby authorizes the Mayor and the City Clerk, as attesting witness, on behalf of the City, to enter into a Joint Project Agreement between the Florida Department of Transportation and the City of Hialeah for Turf and Landscape Maintenance for a term of one year, commencing on August 1, 2007 and ending on July 30, 2008, with two successive annual renewals upon agreement of the parties, whereby FDOT shall pay the City an amount not to exceed \$172,150.00 for landscape and turf maintenance on state roadside areas and median strips designated in the agreement.

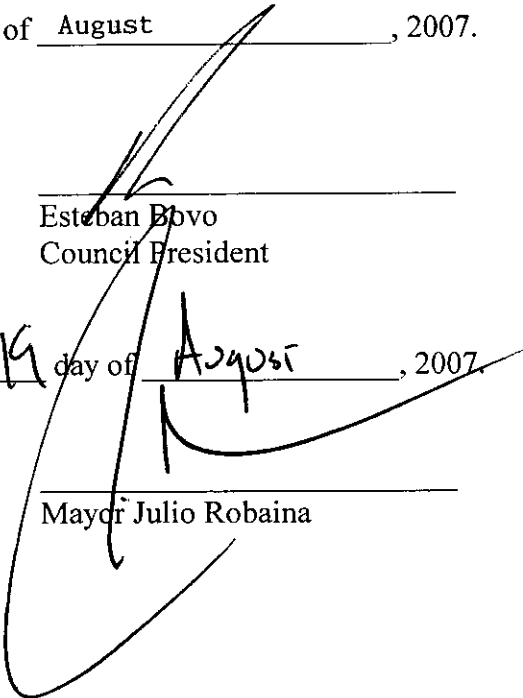
PASSED AND ADOPTED this 14<sup>th</sup> day of August, 2007.

  
\_\_\_\_\_  
Esteban Bovo  
Council President

Attest:

  
\_\_\_\_\_  
Rafael E. Granado, City Clerk

Approved on this 19 day of August, 2007.

  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

s:/wmg/legisl/reso-07/FDOTlandscapeagreement.doc

Resolution was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Gonzalez, Hernandez, Miel and Yedra voting "Yes".

**JOINT PROJECT AGREEMENT**  
**BETWEEN**  
**THE FLORIDA DEPARTMENT OF TRANSPORTATION**  
**AND**  
**THE CITY OF HIALEAH**  
**TURF AND LANDSCAPE MAINTENANCE**

This **AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the **DEPARTMENT**, and the **CITY OF HIALEAH**, a municipal corporation of the State of Florida, existing under the Laws of the State of Florida, hereinafter called the **CITY**.

**WITNESSETH:**

**WHEREAS**, as a part of the continual updating of the State of Florida Highway System, the **DEPARTMENT**, for the purpose of safety, has created roadside areas and median strips on that part of the State Highway System described by Attachment "A", which by reference hereto shall become a part hereof, within the corporate limits of the **CITY**; and

**WHEREAS**, the **CITY** hereto is of the opinion that said median strips and roadside areas shall be attractively landscaped with various flora; and

**WHEREAS**, the parties hereto mutually recognize the need for entering into an agreement designating and setting forth the responsibilities of each party; and

**WHEREAS**, the **CITY**, by Resolution No. \_\_\_\_\_ dated \_\_\_\_\_, attached hereto as Attachment "C", which by reference hereto shall become a part hereof, desires to enter into this **AGREEMENT** and authorizes its officers to do so.

**NOW, THEREFORE**, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

**1. CITY'S MAINTENANCE RESPONSIBILITIES**

The **CITY** shall be responsible for the maintenance of all landscaped and/or turfed areas within the **DEPARTMENT'S** right-of-way having the limits described by Attachment "A". The **CITY** shall be responsible for performing the work described

*Contract Number: AOU50*

*Financial Project Number: 25231017801*

below with a minimum frequency of twelve (12) times per year:

- 1.1. Mow, cut, and/or trim and edge the grass or turf in accordance with the latest edition of the State of Florida "Guide for Roadside Mowing" and the latest edition of the "Maintenance Rating Program".
- 1.2. Properly prune all plants which include plant and tree trimmings in accordance with the latest edition of the "Maintenance Rating Program". Pruning such parts thereof which may present a visual or other safety hazard for those using or intending to use the right-of-way.
- 1.3. Remove and dispose of dead, diseased or otherwise deteriorated plants.
- 1.4. Keep litter removed from roadside areas and median strips.
- 1.5. Remove and dispose of all trimmings, roots, branches, litter, etc., resulting from the activities described by (1.1) through (1.4) inclusively as described above.
- 1.6 All work on the roadway shall be executed under a traffic control plan in accordance with latest edition of the "FDOT Design Standards".

## 2. **WORK SCHEDULE**

The **CITY** shall submit a schedule to the **DEPARTMENT** containing the dates when the **CITY** is planning to perform the mowing work. In addition, before the **CITY** starts the work, the **DEPARTMENT** shall be notified via fax of the state road(s) and day(s) in which the **CITY** will be working. The fax shall be sent to the attention of the "North Dade Maintenance Engineer", at FAX # (305) 650-0067.

## 3. **NATURAL DISASTERS**

The **CITY** shall not be responsible for the clean-up, removal and disposal of debris from the **DEPARTMENT'S** right of way having limits described by Attachment "A", or subsequent amended limits mutually agreed to in writing by both parties following a natural disaster (i.e. hurricane, tornados, etc.). However, the cost of any cycle or part thereof that could be impaired by any such event may be deducted from the **DEPARTMENT'S** affected quarterly payment to the **CITY**.

## 4. **MAINTENANCE DEFICIENCIES**

If, at any time while the terms of this **AGREEMENT** are in effect, it shall come to the attention of the **DISTRICT MAINTENANCE ENGINEER** that the **CITY'S** responsibility, as established herein or a part thereof, is not being properly accomplished pursuant to the terms of this **AGREEMENT**, said **DISTRICT MAINTENANCE ENGINEER** may, at his option, issue a written notice in care of the

*Contract Number: AOU50*

*Financial Project Number: 25231017801*

**CITY MANAGER**, to place said **CITY** on notice thereof. Thereafter the **CITY** shall have a period of thirty (30) calendar days within which to correct the cited deficiency or deficiencies. If said deficiencies are not corrected within this time period the **DEPARTMENT** may, at its option, proceed as follows:

**4.1.** Maintain the median or roadside area(s) declared deficient with **DEPARTMENT** and/or a Contractor's material, equipment and personnel. The actual cost for such work will be deducted from the **DEPARTMENT'S** affected quarterly payment to the **CITY**; or

**4.2.** Terminate this **AGREEMENT**.

**5. NOTICES**

All notices, requests, demands, consents, approvals, and other communication which are required to be served or given hereunder, shall be in writing and shall be sent by registered mail or certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

**To DEPARTMENT:** Florida Department of Transportation  
1000 Northwest 111th Avenue, Room 6205-B  
Miami, Florida 33172-5800  
Attention: District Maintenance Engineer

**To CITY:** City of Hialeah  
501 Palm Avenue  
Hialeah, Florida 33011  
Attention: City Manager

**6. LANDSCAPE MODIFICATION**

It is understood between the parties hereto that the landscaping covered by this **AGREEMENT** may be removed, relocated or adjusted at any time in the future as found necessary by the **DEPARTMENT** in order that the adjacent state road be widened, altered or otherwise changed and maintained to meet with future criteria or planning of the **DEPARTMENT**.

**7. FINANCIAL PROVISIONS**

**7.1** The total maximum limiting appropriation of this **AGREEMENT** is ONE HUNDRED SEVENTY TWO THOUSAND ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$172,150.00) per year. Eligible project costs may not exceed this amount. The **CITY** shall submit quarterly invoices for **DEPARTMENT** review, approval, and payment in accordance with the terms of this **AGREEMENT**. Quarterly lump sum payments will be made upon invoice approval in the total

*Contract Number: AOU50*

*Financial Project Number: 25231017801*

amount of FORTY THREE THOUSAND THIRTY SEVEN DOLLARS AND FIFTY CENTS (\$43,037.50). This **AGREEMENT** is a reimbursement contract. No advance funding payments are authorized herein.

**7.2** The Department agrees to pay the **CITY** for the herein described services at a compensation as detailed in this **AGREEMENT**.

**7.3** Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

**7.4** Travel costs will not be reimbursed.

**7.5** Records of costs incurred under the terms of this **AGREEMENT** shall be maintained and made available upon request to the **DEPARTMENT** at all times during the period of this **AGREEMENT** and for five years after final payment is made. Copies of these documents and records shall be furnished to the **DEPARTMENT** upon request. Records of costs incurred include the **CITY'S** general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the **DEPARTMENT** for a proper audit of costs.

**7.6** In the event this contract is for services in excess of \$25,000.00 and a term for a period of more than 1 year, the provisions of Section 339.135(6)(a), F.S., are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than 1 year."

**7.7** The **DEPARTMENT'S** obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

## **8. PAYMENT ADJUSTMENT**

In the event temporary work by the **DEPARTMENT'S** forces or by other Contractors temporarily prevent the **CITY** from performing the work described in this

*Contract Number: AOU50*

*Financial Project Number: 25231017801*

**AGREEMENT**, the **DEPARTMENT** shall deduct from the affected quarterly lump sum payment(s) the acreage of the affected area and only compensate the **CITY** for the actual work it performs.

The **DEPARTMENT** shall initiate this procedure only if the temporary work described in this section is for a period of one (1) month or longer. Adjustment to the **CITY'S** payment shall also be done as noted in Item Three (3). In the event this **AGREEMENT** is terminated as established by Item Nine (9) herein, no payment will be prorated for the quarter in which termination occurs for the work that has been completed.

## **9. TERMINATION**

This **AGREEMENT**, or part thereof, is subject to termination under any one of the following conditions:

- 9.1. In the event the **DEPARTMENT** exercises the option identified by Item Four (4) of this **AGREEMENT**.
- 9.2. As mutually agreed to by both parties.
- 9.3. In accordance with Section 287.058(1) (c), Florida Statutes, the **DEPARTMENT** shall reserve the right to unilaterally cancel this **AGREEMENT** if the **CITY** refuses to allow public access to any or all documents, papers, letters, or other materials made or received by the **CITY** pertinent to this **AGREEMENT** which are subject to provisions of Chapter 119, of the Florida Statutes.

## **10. TERMS**

- 10.1. The terms of this **AGREEMENT** shall only commence when the **DEPARTMENT** issues the **CITY** the Notice to Proceed Letter.
- 10.2. In accordance with Section 287.058(1)(e), Florida Statutes, this **AGREEMENT** is for a period of one (1) year beginning on the date stated in the Notice to Proceed.
- 10.3. In accordance with Section 287.0582, Florida Statutes, the **DEPARTMENT** shall only appropriate the annual amount of ONE HUNDRED SEVENTY TWO THOUSAND ONE HUNDRED FIFTY THOUSAND DOLLARS (\$172,150.00) at the beginning of each **DEPARTMENT** Fiscal Year (July 1).
- 10.4. The beginning date of this **AGREEMENT** is August 1, 2007, and the ending date of this **AGREEMENT** is July 30, 2008.

## **11. RENEWAL**

*Contract Number: AOU50*

*Financial Project Number: 25231017801*

In accordance with Section 287.058(1)(f), Florida Statutes, this **AGREEMENT** may be renewed on a yearly basis for a maximum of two (2) years after the initial contract or for a period no longer than the term of the original contract, whichever period is longer, only if mutually agreed to in writing by the **DEPARTMENT** and the **CITY**, subject to the same terms and conditions set forth in this **AGREEMENT**. Said renewals shall be contingent upon both satisfactory **CITY** performance evaluations by the **DEPARTMENT** and the availability of future funding.

**12. ATTACHMENT "A" AMENDMENT**

It is further understood that Attachment "A" may be amended or changed at any time, as mutually agreed to in writing by both parties. Payment as specified in Item Seven (7) above shall reflect such amendment or change.

**13. TIME EXTENSION**

In accordance with Section 287.012(10), Florida Statutes, this **AGREEMENT** may be extended if mutually agreed to in writing by both parties, for a period not to exceed six (6) months and shall be subject to the same terms and conditions set forth in this **AGREEMENT**; provided the **DEPARTMENT** may, in its discretion, grant a proportional increase in the total dollar amount based on the method and rate established herein. There shall be only one extension of this **AGREEMENT**.

**14. ADDITIONAL LANDSCAPING**

The **CITY** may construct additional landscaping within the limits of the right-of-way identified as a result of this **AGREEMENT**, subject to the following conditions:

- 14.1.** Plans for any new landscaping shall be subject to approval by the **DEPARTMENT**. The **CITY** shall not change or deviate from said plans without the prior written approval of the **DEPARTMENT**.
- 14.2.** All landscaping shall be developed and implemented in accordance with appropriate state safety and road design standards;
- 14.3.** All requirements and terms established by this **AGREEMENT** shall also apply to any additional landscaping installed under this item;
- 14.4.** The **CITY** agrees to complete, execute and comply with the requirements of the **DEPARTMENT'S** standard permit provided as Attachment "B" (not to actual size) to this **AGREEMENT**, which by reference hereto shall become a part hereof.

*Contract Number: AOU50*

*Financial Project Number: 25231017801*



- 14.5. No change will be made in the payment terms established under Item Seven (7) of this **AGREEMENT** due to any increase in cost to the **CITY** resulting from the installation and maintenance of landscaping added under this item;
- 14.6. In the event this **AGREEMENT** is terminated as established under Item Nine (9) herein, the **CITY** agrees to accept full responsibility for all maintenance activities within the entire area(s) defined by the plans and permits established as a result of this item. The **CITY** shall provide this maintenance at no cost to the **DEPARTMENT**.
15. This writing embodies the entire **AGREEMENT** and understanding between the parties hereto and there are not other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.
16. This **AGREEMENT** is nontransferable and non-assignable in whole or in part without consent of the **DEPARTMENT**.
17. This **AGREEMENT**, regardless of where executed, shall be governed by and constructed in accordance with the laws of the State of Florida.

- REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be executed the day and year first above written.

**CITY OF HIALEAH**

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

BY: \_\_\_\_\_  
Mayor

BY: \_\_\_\_\_  
District Secretary

ATTEST: \_\_\_\_\_  
CITY Clerk (Seal)

ATTEST: \_\_\_\_\_  
Executive Secretary

**LEGAL REVIEW:**

BY: William Grodnick  
CITY Attorney

BY: \_\_\_\_\_  
District General Counsel

Contract Number: AOU50  
Financial Project Number: 25231017801

# ATTACHMENT "A"

Below is the state road, the limits, length, and acreage of the areas to be maintained by the CITY of HIALEAH under this **AGREEMENT**.

82	Okeechobee Rd	Palmetto Expressway	NW 36 <sup>th</sup> St	4.91	2.358
82	Service Rd	Okeechobee Rd	NW 138 <sup>th</sup> St	2.970	2.270
82	NW 138 <sup>th</sup> St	Palmetto Expressway	Deleune Road	3.898	8.810
85	Deleune Rd	Okeechobee Rd	NW 119 <sup>th</sup> St	4.888	5.640
TOTAL:					37.386

**TOTAL ACREAGE: 37.386**

**TOTAL ANNUAL MAXIMUM LIMITING  
AMOUNT ELIGIBLE FOR REIMBURSEMENT: \$ 172,150.00**

Contract Number: AOU50

Financial Project Number: 25231017801

# ATTACHMENT "B"

## STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION SPECIAL PERMIT

District Six  
6/95

DATE: \_\_\_\_\_ PERMIT NO.: \_\_\_\_\_  
SECTION NO.: \_\_\_\_\_ STATE ROAD NO.: \_\_\_\_\_  
COUNTY: \_\_\_\_\_ MILEPOST FROM: \_\_\_\_\_ TO: \_\_\_\_\_  
STATE PROJECT NO.: \_\_\_\_\_ (if applicable) RECORD NO.: \_\_\_\_\_

APPLICANT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
TELEPHONE NO.: \_\_\_\_\_

Applicant requests permission from the State of Florida Department of Transportation, hereinafter called the Department, to construct, operate, and maintain the facility shown in the accompanying engineering as described here: \_\_\_\_\_

Location of Construction, Street Name, and Nearest Intersection: \_\_\_\_\_

1. Is the proposed work within the corporate limits of a municipality: Yes ( ) No ( )  
Name of municipality: \_\_\_\_\_ Local Government Contact: \_\_\_\_\_
2. Prior to filing this application, the location of all existing utilities, both aerial and underground, has been ascertained, and the accurate locations are shown on the drawings (as applicable). A letter of notification was mailed on \_\_\_\_\_ to the following utilities/municipalities: \_\_\_\_\_
3. It is expressly stipulated that this permit is a license for permissive use only and that the construction within and/or upon public property pursuant to this permit shall not operate to create or vest any property right in said holder.
4. Whenever it is determined by the Department that it is necessary for the construction, repair, improvement, maintenance, safe and/or efficient operation, alteration, or relocation of any or all portion of said highway and/or transportation facility; the Permittee shall immediately remove any and all installed facilities from said highway and/or transportation facility, or reset or relocate thereon as required by the Department at the Permittee's expense.
5. All work shall meet Department's Roadway and Traffic Design Standards, Specifications for Road and Bridge Construction, and other applicable criteria in effect at the time of permit issuance. The work shall be performed under the inspection supervision of \_\_\_\_\_ Permit/Maintenance Engineer located at \_\_\_\_\_ Telephone No. \_\_\_\_\_. This designated engineer shall be notified forty-eight (48) hours prior to the pre-construction meeting and again immediately before commencement of work. All material and equipment shall be subject to inspection by the designated engineer or his authorized representative.
6. All Department property shall be restored to its original condition as far as practical in keeping with Department Specifications, and in a manner satisfactory to the Department, within thirty (30) days of the installation of the permitted work, unless otherwise approved by the Department.
7. A drawing covering details of this work shall be made a part of this permit. This drawing shall include plan, profile, and cross sections as appropriate, and may be required to bear the seal of a professional engineer licensed in the State of Florida. As built drawings are required: Yes ( ) No ( )
8. The Permittee shall commence actual construction in good faith within \_\_\_\_\_ days from the date of said permit approval and shall complete construction within \_\_\_\_\_ days from the commencement of work unless the permittee shows good cause for delay and the Department approves an extension. No extension beyond one (1) year from the date of issuance of this permit will be granted.
9. This construction and maintenance shall not interfere with the property and rights of a prior Permittee.
10. Special Conditions and Instructions by the Department: \_\_\_\_\_
11. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the State's right, title, and interest in the land to be entered upon and used by the Permittee, his heirs, assigns, and successors in interest, and the Permittee will, at all times, assume all risk of and indemnify, defend, and save harmless the State of Florida and the Department from and against any and all loss, damage, cost, or expense arising in any manner on account of the exercise or attempted exercise by said Permittee of the aforesaid rights and privileges.
12. During construction through Department acceptance of the permitted work, all safety regulations of the Department shall be observed and the holder must take measures, including placement and display of safety devices, that may be necessary in order to safely conduct the public through the project area in accordance with the Department's current edition of the Roadway and Traffic Design Standards, Index Series 600, and the Manual of Uniform Traffic Control Devices.
13. In case of non-compliance with the Department's requirements in effect as of the approved date of this permit, this permit is void and the work will be brought into compliance or removed from the right-of-way at no cost to the Department.

Submitted and Agreed to by: \_\_\_\_\_ Corporate Seal  
Signature of Permittee  
Name and Title (typed) \_\_\_\_\_ Attested  
Recommended for approval: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_  
Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
District Permit Engineer or Authorized Representative

Contract Number: AOU50

Financial Project Number: 25231017801

# ***ATTACHMENT "C"***

## ***ATTACH CITY RESOLUTION***

*Contract Number: AOU50*

*Financial Project Number: 25231017801*



CLERK 09/13/07 PM 2:19

*C*  
*see me*  
*Sti*

**Florida Department of Transportation** PM 2:19

CHARLIE CRIST  
GOVERNOR

1000 Northwest 111<sup>th</sup> Avenue  
MAINTENANCE DEPARTMENT  
Miami, FL 33172  
Room # 62C5B  
DISTRICT SIX

STEPHANIE C. KOPELOUSOS  
SECRETARY

*Where a request for service is an opportunity to serve you!*

September 1<sup>st</sup>, 2007

Mr. Julio Robaina, Mayor  
City of Hialeah  
501 Palm Avenue  
Hialeah, FL 33010-4719

**RE: NOTICE TO PROCEED- RENEWAL#1**  
Turf and Landscape Joint Project Agreement  
Contract No.: AOU50  
Financial No.: 25235717806

Dear Mr. Robaina

The Department and the City of Hialeah have executed the Joint Project Agreement (JPA) noted above for a period of one year, starting September 1<sup>st</sup>, 2007.

The City may invoice the Department after the end of each quarter according to the schedule below.

1 <sup>st</sup> Quarter-	September 1, 2007 thru November 30 <sup>th</sup> , 2007
2 <sup>nd</sup> Quarter	December 1 <sup>st</sup> , 2007 thru February 29 <sup>th</sup> , 2008
3 <sup>rd</sup> Quarter	March 1 <sup>st</sup> , 2008 thru May 31 <sup>st</sup> , 2008
4 <sup>th</sup> Quarter	June 1 <sup>st</sup> , 2008 thru August 30 <sup>th</sup> , 2008

If you have any questions concerning the agreement, please contact me at telephone number (305) 470-5351

Sincerely,

*Ronald S. Steiner*

Ronald S. Steiner  
District Maintenance Engineer

**RECEIVED**

SEP 10 2007

**OFFICE OF THE MAYOR**

cc: Guy Gladson, Houshang Zahedi, Sarah Perez, Hernan Villar, Procurement.

**JOINT PROJECT AGREEMENT**  
**BETWEEN**  
**THE FLORIDA DEPARTMENT OF TRANSPORTATION**  
**AND**  
**THE CITY OF HIALEAH**  
**TURF AND LANDSCAPE MAINTENANCE**

This **AGREEMENT** is made and entered into this 31<sup>st</sup> day of August, 2007, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the **DEPARTMENT**, and the **CITY OF HIALEAH**, a municipal corporation of the State of Florida, existing under the Laws of the State of Florida, hereinafter called the **CITY**.

**WITNESSETH:**

**WHEREAS**, as a part of the continual updating of the State of Florida Highway System, the **DEPARTMENT**, for the purpose of safety, has created roadside areas and median strips on that part of the State Highway System described by Attachment "A", which by reference hereto shall become a part hereof, within the corporate limits of the **CITY**; and

**WHEREAS**, the **CITY** hereto is of the opinion that said median strips and roadside areas shall be attractively landscaped with various flora; and

**WHEREAS**, the parties hereto mutually recognize the need for entering into an agreement designating and setting forth the responsibilities of each party; and

**WHEREAS**, the **CITY**, by Resolution No. 07-90 dated 8/19/07, attached hereto as Attachment "C", which by reference hereto shall become a part hereof, desires to enter into this **AGREEMENT** and authorizes its officers to do so.

**NOW, THEREFORE**, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

**1. CITY'S MAINTENANCE RESPONSIBILITIES**

The **CITY** shall be responsible for the maintenance of all landscaped and/or turfed areas within the **DEPARTMENT'S** right-of-way having the limits described by Attachment "A". The **CITY** shall be responsible for performing the work described

below with a minimum frequency of twelve (12) times per year:

- 1.1. Mow, cut, and/or trim and edge the grass or turf in accordance with the latest edition of the State of Florida "Guide for Roadside Mowing" and the latest edition of the "Maintenance Rating Program".
- 1.2. Properly prune all plants which include plant and tree trimmings in accordance with the latest edition of the "Maintenance Rating Program". Pruning such parts thereof which may present a visual or other safety hazard for those using or intending to use the right-of-way.
- 1.3. Remove and dispose of dead, diseased or otherwise deteriorated plants.
- 1.4. Keep litter removed from roadside areas and median strips.
- 1.5. Remove and dispose of all trimmings, roots, branches, litter, etc., resulting from the activities described by (1.1) through (1.4) inclusively as described above.
- 1.6 All work on the roadway shall be executed under a traffic control plan in accordance with latest edition of the "FDOT Design Standards".

## 2. **WORK SCHEDULE**

The **CITY** shall submit a schedule to the **DEPARTMENT** containing the dates when the **CITY** is planning to perform the mowing work. In addition, before the **CITY** starts the work, the **DEPARTMENT** shall be notified via fax of the state road(s) and day(s) in which the **CITY** will be working. The fax shall be sent to the attention of the "North Dade Maintenance Engineer", at FAX # (305) 650-0067.

## 3. **NATURAL DISASTERS**

The **CITY** shall not be responsible for the clean-up, removal and disposal of debris from the **DEPARTMENT'S** right of way having limits described by Attachment "A", or subsequent amended limits mutually agreed to in writing by both parties following a natural disaster (i.e. hurricane, tornados, etc.). However, the cost of any cycle or part thereof that could be impaired by any such event may be deducted from the **DEPARTMENT'S** affected quarterly payment to the **CITY**.

## 4. **MAINTENANCE DEFICIENCIES**

If, at any time while the terms of this **AGREEMENT** are in effect, it shall come to the attention of the **DISTRICT MAINTENANCE ENGINEER** that the **CITY'S** responsibility, as established herein or a part thereof, is not being properly accomplished pursuant to the terms of this **AGREEMENT**, said **DISTRICT MAINTENANCE ENGINEER** may, at his option, issue a written notice in care of the

*Contract Number: AOU50*

*Financial Project Number: 25231017801*



**CITY MANAGER**, to place said **CITY** on notice thereof. Thereafter the **CITY** shall have a period of thirty (30) calendar days within which to correct the cited deficiency or deficiencies. If said deficiencies are not corrected within this time period the **DEPARTMENT** may, at its option, proceed as follows:

4.1. Maintain the median or roadside area(s) declared deficient with **DEPARTMENT** and/or a Contractor's material, equipment and personnel. The actual cost for such work will be deducted from the **DEPARTMENT'S** affected quarterly payment to the **CITY**; or

4.2. Terminate this **AGREEMENT**.

## 5. **NOTICES**

All notices, requests, demands, consents, approvals, and other communication which are required to be served or given hereunder, shall be in writing and shall be sent by registered mail or certified U.S. mail, return receipt requested, postage prepaid, addressed to the party to receive such notices as follows:

**To DEPARTMENT:** Florida Department of Transportation  
1000 Northwest 111th Avenue, Room 6205-B  
Miami, Florida 33172-5800  
Attention: District Maintenance Engineer

**To CITY:** City of Hialeah  
501 Palm Avenue  
Hialeah, Florida 33011  
Attention: City Manager

## 6. **LANDSCAPE MODIFICATION**

It is understood between the parties hereto that the landscaping covered by this **AGREEMENT** may be removed, relocated or adjusted at any time in the future as found necessary by the **DEPARTMENT** in order that the adjacent state road be widened, altered or otherwise changed and maintained to meet with future criteria or planning of the **DEPARTMENT**.

## 7. **FINANCIAL PROVISIONS**

7.1 The total maximum limiting appropriation of this **AGREEMENT** is ONE HUNDRED SEVENTY TWO THOUSAND ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$172,150.00) per year. Eligible project costs may not exceed this amount. The **CITY** shall submit quarterly invoices for **DEPARTMENT** review, approval, and payment in accordance with the terms of this **AGREEMENT**. Quarterly lump sum payments will be made upon invoice approval in the total

*Contract Number: AOU50*

*Financial Project Number: 25231017801*

amount of FORTY THREE THOUSAND THIRTY SEVEN DOLLARS AND FIFTY CENTS (\$43,037.50). This **AGREEMENT** is a reimbursement contract. No advance funding payments are authorized herein.

**7.2** The Department agrees to pay the **CITY** for the herein described services at a compensation as detailed in this **AGREEMENT**.

**7.3** Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

**7.4** Travel costs will not be reimbursed.

**7.5** Records of costs incurred under the terms of this **AGREEMENT** shall be maintained and made available upon request to the **DEPARTMENT** at all times during the period of this **AGREEMENT** and for five years after final payment is made. Copies of these documents and records shall be furnished to the **DEPARTMENT** upon request. Records of costs incurred include the **CITY'S** general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the **DEPARTMENT** for a proper audit of costs.

**7.6** In the event this contract is for services in excess of \$25,000.00 and a term for a period of more than 1 year, the provisions of Section 339.135(6)(a), F.S., are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000.00 and which have a term for a period of more than 1 year."

**7.7** The **DEPARTMENT'S** obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

## **8. PAYMENT ADJUSTMENT**

In the event temporary work by the **DEPARTMENT'S** forces or by other Contractors temporarily prevent the **CITY** from performing the work described in this

*Contract Number: AOU50*

*Financial Project Number: 25231017801*

**AGREEMENT**, the **DEPARTMENT** shall deduct from the affected quarterly lump sum payment(s) the acreage of the affected area and only compensate the **CITY** for the actual work it performs.

The **DEPARTMENT** shall initiate this procedure only if the temporary work described in this section is for a period of one (1) month or longer. Adjustment to the **CITY'S** payment shall also be done as noted in Item Three (3). In the event this **AGREEMENT** is terminated as established by Item Nine (9) herein, no payment will be prorated for the quarter in which termination occurs for the work that has been completed.

## **9. TERMINATION**

This **AGREEMENT**, or part thereof, is subject to termination under any one of the following conditions:

- 9.1.** In the event the **DEPARTMENT** exercises the option identified by Item Four (4) of this **AGREEMENT**.
- 9.2.** As mutually agreed to by both parties.
- 9.3.** In accordance with Section 287.058(1) (c), Florida Statutes, the **DEPARTMENT** shall reserve the right to unilaterally cancel this **AGREEMENT** if the **CITY** refuses to allow public access to any or all documents, papers, letters, or other materials made or received by the **CITY** pertinent to this **AGREEMENT** which are subject to provisions of Chapter 119, of the Florida Statutes.

## **10. TERMS**

- 10.1.** The terms of this **AGREEMENT** shall only commence when the **DEPARTMENT** issues the **CITY** the Notice to Proceed Letter.
- 10.2.** In accordance with Section 287.058(1)(e), Florida Statutes, this **AGREEMENT** is for a period of one (1) year beginning on the date stated in the Notice to Proceed.
- 10.3.** In accordance with Section 287.0582, Florida Statutes, the **DEPARTMENT** shall only appropriate the annual amount of ONE HUNDRED SEVENTY TWO THOUSAND ONE HUNDRED FIFTY THOUSAND DOLLARS (\$172,150.00) at the beginning of each **DEPARTMENT** Fiscal Year (July 1).
- 10.4** The beginning date of this **AGREEMENT** is August 1, 2007, and the ending date of this **AGREEMENT** is July 30, 2008.

## **11. RENEWAL**

*Contract Number: AOU50*

*Financial Project Number: 25231017801*

In accordance with Section 287.058(1)(f), Florida Statutes, this **AGREEMENT** may be renewed on a yearly basis for a maximum of two (2) years after the initial contract or for a period no longer than the term of the original contract, whichever period is longer, only if mutually agreed to in writing by the **DEPARTMENT** and the **CITY**, subject to the same terms and conditions set forth in this **AGREEMENT**. Said renewals shall be contingent upon both satisfactory **CITY** performance evaluations by the **DEPARTMENT** and the availability of future funding.

**12. ATTACHMENT "A" AMENDMENT**

It is further understood that Attachment "A" may be amended or changed at any time, as mutually agreed to in writing by both parties. Payment as specified in Item Seven (7) above shall reflect such amendment or change.

**13. TIME EXTENSION**

In accordance with Section 287.012(10), Florida Statutes, this **AGREEMENT** may be extended if mutually agreed to in writing by both parties, for a period not to exceed six (6) months and shall be subject to the same terms and conditions set forth in this **AGREEMENT**; provided the **DEPARTMENT** may, in its discretion, grant a proportional increase in the total dollar amount based on the method and rate established herein. There shall be only one extension of this **AGREEMENT**.

**14. ADDITIONAL LANDSCAPING**

The **CITY** may construct additional landscaping within the limits of the right-of-way identified as a result of this **AGREEMENT**, subject to the following conditions:

- 14.1.** Plans for any new landscaping shall be subject to approval by the **DEPARTMENT**. The **CITY** shall not change or deviate from said plans without the prior written approval of the **DEPARTMENT**.
- 14.2.** All landscaping shall be developed and implemented in accordance with appropriate state safety and road design standards;
- 14.3.** All requirements and terms established by this **AGREEMENT** shall also apply to any additional landscaping installed under this item;
- 14.4.** The **CITY** agrees to complete, execute and comply with the requirements of the **DEPARTMENT'S** standard permit provided as Attachment "B" (not to actual size) to this **AGREEMENT**, which by reference hereto shall become a part hereof.

- 14.5. No change will be made in the payment terms established under Item Seven (7) of this **AGREEMENT** due to any increase in cost to the **CITY** resulting from the installation and maintenance of landscaping added under this item;
- 14.6. In the event this **AGREEMENT** is terminated as established under Item Nine (9) herein, the **CITY** agrees to accept full responsibility for all maintenance activities within the entire area(s) defined by the plans and permits established as a result of this item. The **CITY** shall provide this maintenance at no cost to the **DEPARTMENT**.
15. This writing embodies the entire **AGREEMENT** and understanding between the parties hereto and there are not other agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.
16. This **AGREEMENT** is nontransferable and non-assignable in whole or in part without consent of the **DEPARTMENT**.
17. This **AGREEMENT**, regardless of where executed, shall be governed by and constructed in accordance with the laws of the State of Florida.

- REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year first above written.

CITY OF HIALEAH

BY: 

Mayor

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

BY: 

District Secretary

ATTEST: 

CITY Clerk (Seal)

ATTEST: 

Executive Secretary

LEGAL REVIEW:

BY: 

CITY Attorney

BY: 

District General Counsel

Contract Number: AOU50

Financial Project Number: 25231017801

# ATTACHMENT "A"

Below is the state road, the limits, length, and acreage of the areas to be maintained by the CITY of HIALEAH under this **AGREEMENT**.

State Rd	Local Name	From	To	Length (Miles)	Acreage
25	Okeechobee Rd.	Palmetto Expressway	NW 36 <sup>th</sup> St.	4.919	2.358
823	Red Road	Okeechobee Rd.	NW 118 <sup>th</sup> St.	4.754	1.940
826	E. Service Rd.	Okeechobee Rd.	NW 138 <sup>th</sup> St.	2.970	2.270
826	W. Service Rd.	NW 138 <sup>th</sup> St.	NW 138 <sup>th</sup> St.	2.240	1.030
916	NW 138 <sup>th</sup> St.	Palmetto Expressway	LeJeune Road	3.598	8.810
932	NW 103 <sup>rd</sup> St.	Palmetto Expressway	SCL Overpass at RR Tracks.	3.886	2.430
953	LeJeune Rd.	Okeechobee Rd.	NW 119 <sup>th</sup> St.	4.889	5.640
934	Hialeah Expressway	Okeechobee Rd.	E. 12 <sup>th</sup> Ave.	3.34	6.908

TOTAL: 37.386

**TOTAL ACREAGE: 37.386**

**TOTAL ANNUAL MAXIMUM LIMITING  
AMOUNT ELIGIBLE FOR REIMBURSEMENT: \$ 172,150.00**

Contract Number: AOU50

Financial Project Number: 25231017801

# ATTACHMENT "B"

## STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION SPECIAL PERMIT

District Six  
6/95

DATE: \_\_\_\_\_  
SECTION NO.: \_\_\_\_\_  
COUNTY: \_\_\_\_\_  
STATE PROJECT NO.: \_\_\_\_\_ (if applicable)  
PERMIT NO.: \_\_\_\_\_  
STATE ROAD NO.: \_\_\_\_\_  
MILEPOST FROM: \_\_\_\_\_ TO: \_\_\_\_\_  
RECORD NO.: \_\_\_\_\_

APPLICANT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_  
TELEPHONE NO.: \_\_\_\_\_

Applicant requests permission from the State of Florida Department of Transportation, hereinafter called the Department, to construct, operate, and maintain the facility shown in the accompanying engineering as described here: \_\_\_\_\_

Location of Construction, Street Name, and Nearest Intersection: \_\_\_\_\_

1. Is the proposed work within the corporate limits of a municipality: Yes ( ) No ( )  
Name of municipality: \_\_\_\_\_ Local Government Contact: \_\_\_\_\_
2. Prior to filing this application, the location of all existing utilities, both aerial and underground, has been ascertained, and the accurate locations are shown on the drawings (as applicable). A letter of notification was mailed on \_\_\_\_\_ to the following utilities/municipalities: \_\_\_\_\_
3. It is expressly stipulated that this permit is a license for permissive use only and that the construction within and/or upon public property pursuant to this permit shall not operate to create or vest any property right in said holder.
4. Whenever it is determined by the Department that it is necessary for the construction, repair, improvement, maintenance, safe and/or efficient operation, alteration, or relocation of any or all portion of said highway and/or transportation facility; the Permittee shall immediately remove any and all installed facilities from said highway and/or transportation facility, or reset or relocate thereon as required by the Department at the Permittee's expense.
5. All work shall meet Department's Roadway and Traffic Design Standards, Specifications for Road and Bridge Construction, and other applicable criteria in effect at the time of permit issuance. The work shall be performed under the inspection supervision of \_\_\_\_\_ Permit/Maintenance Engineer located at \_\_\_\_\_ Telephone No. \_\_\_\_\_. This designated engineer shall be notified forty-eight (48) hours prior to the pre-construction meeting and again immediately before commencement of work. All material and equipment shall be subject to inspection by the designated engineer or his authorized representative.
6. All Department property shall be restored to its original condition as far as practical in keeping with Department Specifications, and in a manner satisfactory to the Department, within thirty (30) days of the installation of the permitted work, unless otherwise approved by the Department.
7. A drawing covering details of this work shall be made a part of this permit. This drawing shall include plan, profile, and cross sections as appropriate, and may be required to bear the seal of a professional engineer licensed in the State of Florida. As built drawings are required: Yes ( ) No ( )
8. The Permittee shall commence actual construction in good faith within \_\_\_\_\_ days from the date of said permit approval and shall complete construction within \_\_\_\_\_ days from the commencement of work unless the permittee shows good cause for delay and the Department approves an extension. No extension beyond one (1) year from the date of issuance of this permit will be granted.
9. This construction and maintenance shall not interfere with the property and rights of a prior Permittee.
10. Special Conditions and Instructions by the Department: \_\_\_\_\_
11. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the State's right, title, and interest in the land to be entered upon and used by the Permittee, his heirs, assigns, and successors in interest, and the Permittee will, at all times, assume all risk of and indemnify, defend, and save harmless the State of Florida and the Department from and against any and all loss, damage, cost, or expense arising in any manner on account of the exercise or attempted exercise by said Permittee of the aforesaid rights and privileges.
12. During construction through Department acceptance of the permitted work, all safety regulations of the Department shall be observed and the holder must take measures, including placement and display of safety devices, that may be necessary in order to safely conduct the public through the project area in accordance with the Department's current edition of the Roadway and Traffic Design Standards, Index Series 600, and the Manual of Uniform Traffic Control Devices.
13. In case of non-compliance with the Department's requirements in effect as of the approved date of this permit, this permit is void and the work will be brought into compliance or removed from the right-of-way at no cost to the Department.

Submitted and Agreed to by: \_\_\_\_\_ Signature of Permittee \_\_\_\_\_ Corporate Seal \_\_\_\_\_  
Name and Title (typed) \_\_\_\_\_ Attested \_\_\_\_\_  
Recommended for approval: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_  
Approved by: \_\_\_\_\_ District Permit Engineer or Authorized Representative \_\_\_\_\_ Date: \_\_\_\_\_

Contract Number: AOU50

Financial Project Number: 25231017801



# ***ATTACHMENT "C"***

## ***ATTACH CITY RESOLUTION***

*Contract Number: AOU50*

*Financial Project Number: 25231017801*